

# COMMUNITY USE OF SCHOOLS AND MUNICIPAL PROPERTY: A RISK-MANAGEMENT CHECKLIST

- Take reasonable steps to ensure that the community use site is safe for others to use. Keep areas well-maintained, equipment in working order, and grounds free from danger. Taking these steps will protect schools and municipal buildings from liability during normal operational hours as well as when school is not in session or the municipal buildings are not in use.
- Educate employees about keeping the school and municipal property a safe place for children and recreational users.
- Evaluate the costs that will be incurred from specific episodes of community use of the school or municipal property.
  - Remember that for the Recreational Use Statute to apply, users cannot be charged a fee to enter the space, meaning the site owner cannot collect an amount of money that exceeds the costs directly linked to opening the space on that occasion. However, if there are demonstrable costs associated with opening up the space to the community, community use site owners can be reimbursed for those specific costs. Calculate costs directly attributable to the users' recreational use of the property (janitorial and other staff overtime, supervising staff cost, and security services needed for the additional hours) and collect only this amount to reimburse the school for these costs. Document these expenses.
  - Refer to these monies in all related documentation, such as tickets, licenses, etc., as "reimbursements."<sup>48</sup>
- Assess the extent of coverage in the school or town's insurance policy, including: when the school is covered (during and/or after school), the coverage of first party (policy-holder) injury or damage, and whether community users are or can be covered. Assess costs of additional needed coverage, if any.
  - Assess the extent of coverage of the community user's insurance policy, if any, including whether the policy will cover damage to school or municipal grounds and injuries to persons using the school or municipal facilities.
  - Negotiate with community users regarding which party will pay for any additional insurance that is required and whether the community user will indemnify the school or town.
- Evaluate the possible use of liability waivers that require community use program participants to waive the right to bring claims against the community use site owner for participants' personal injuries.

<sup>48</sup> See John J. Davis, *Tort Liability of Schools and School Employees*, in *SCHOOL LAW IN MASSACHUSETTS* (2nd ed. 2012).